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Attorney for Petitioner DEPENBROCK

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JEFFREY S. DEPENBROCK,

Petitioner,

v.

D.W. NEVEN, et al.,

Respondents.

Case No. 2:12-cv-01327-RFB-CWH

**UNOPPOSED MOTION FOR AN
ENLARGEMENT OF TIME IN
WHICH TO FILE AN AMENDED
PETITION FOR WRIT OF HABEAS
CORPUS**

(Third Request)

COMES NOW, The petitioner, Jeffrey S. Depenbrock, by and through counsel of record, Assistant Federal Public Defender Jason F. Carr, hereby moves this Court for an enlargement of time of forty days (40) days from October 9, 2015, to and including November 18, 2015, in which to file an Amended Petition for Writ of Habeas Corpus. This motion is based upon the attached points and authorities and all pleadings and papers on file herein.

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DATED this 9th day of October, 2015.

FEDERAL PUBLIC DEFENDER
DISTRICT OF NEVADA

/s/ Jason F. Carr

JASON F. CARR
Assistant Federal Public Defender

IT IS SO ORDERED:



RICHARD F. BOULWARE, II
United States District Judge
DATED this 28th day of October, 2015.

POINTS AND AUTHORITIES

1. On September 23, 2014, this Court appointed the Law Offices of the Federal Public Defender to represent Petitioner in the above-entitled action. (See Clerk's Record (CR) 23.) On October 1, 2014, counsel for Petitioner filed his Notice of Appearance. (CR 27.) On January 13, 2015, this Court ordered Petitioner to file an Amended Petition for Writ of Habeas Corpus within one hundred twenty (120) days or by May 13, 2015. (CR 32.) After enlargements of time to file the Amended Petition to October 9, 2015 (CR 35), Depenbrock seeks an additional 40 days to November 18, 2015 to file the petition.

2. Since appointment to this case, counsel's office has engaged in the process of ordering, gathering and organizing the state court record, including all discovery and prior counsel files, in Mr. Depenbrock's case. All of the aforementioned documents have been electronically imaged in accordance with the case management and handling procedures set in place by the non-capital habeas unit to go paper free.

3. Counsel has met with Mr. Depenbrock to discuss the complexities of this case.

4. An extension of time is necessary to provide counsel sufficient time to: 1) to further discuss the complexities of this matter with him with Mr. Depenbrock; 2) allow for the consultation with the unit chief; 3) allow counsel to continue his review of the record; and 4) allow counsel sufficient time to investigate this relatively complex case before drafting the amended petition.

5. The primary reason counsel requests this continuance is that press of business complicates filing Mr. Depenbrock's amended petition. The following conflicting deadlines illustrate counsel's need for an extension: petition for rehearing filed September 9, 2015, in *USA v. Abell*, CA number 14-10165; a previously extended

response to a court order due September 15, 2015, in *Ramirez v. Baker*, case number 3:13-cv-0025-MMD-VPC; preparation and participation in an oral argument in San Francisco on September 16, 2015, in *Abara v. Baker*, CA number 13-16712; an opposition to motion to dismiss filed September 21, 2015, in *Moore v. LeGrand*, case number 3:13-cv-00390-LRH-WGC; an application for certificate of appealability filed September 25, 2015, in *Lewis v. State of Nevada*, case number 2:13-cv-00757-MMF-VCF; an application for certificate of appealability filed September 25, 2015, in *Sandoval v. LeGrand*, case number 3:11-cv-0799-MMD-VPC; a previously extended amended petition filed October 2, 2015, in *Redenius v. Palmer*, case number 3:14-cv-0538-RCJ-VPC; a reply to opposition to motion for reconsideration due October 12, 2015, in *Ramirez v. Baker*, case number 3:13-cv-0025-MMD-VPC; a previously extended opening brief due October 13, 2015, in *USA v. Bryant*, CA number 15-15439; a previously extended opposition to motion to dismiss due October 15, 2015, in *Ramos v. LeGrand*, case number 3:14-cv-0219-MMD-WGC; a reply due October 15, 2015, in *Joshlin v. Neven*, case number 2:13-cv-1014-JCM-NJK; a previously extended opening brief due October 19, 2015, in *Smith v. Cox*, CA number 14-15884; preparation and participation in oral argument in San Francisco on October 21, 2015, in *Hawes v. Palmer*, CA number 14-15805; a notice of appeal due October 23, 2015, in *Davis v. Warden*, case number 2:05-cv-1179-KJD-NJK; a previously extended opposition to motion to dismiss due October 29, 2015, in *Peters v. Neven*, case number 2:14-cv-1055-RFB-VCF; an application for certificate of appealability due September 30, 2015, in *Dollar v. Smith*, case number 2:13-cv-1952-JCM-GWF; a previously extended opening brief due November 9, 2015, *United States v. Pollard*, CA number 15-10246; and a previously extended reply due November 10, 2015, in *Duarte v. Williams*, case number 2:12-cv-1305-JAD-PAL.

6. Therefore, counsel seeks an additional forty (40) days, to and including November 18, 2015, in which to continue his review of the record and prepare the amended petition. This is counsel's third request for an extension of time in this case.

7. On September 25, 2015, counsel contacted Deputy Attorney General Amanda Kunzi via email concerning this request for an extension of time. Ms. Kunzi had no objection to the request for an extension of time, with the caveat that nothing about the decision not to oppose Petitioner's extension request signifies an implied finding of a basis for tolling any applicable period of limitations or the waiver of any other procedural defense. Petitioner at all times remains responsible for calculating any limitations periods and understands that, in granting an extension request, the Court makes no finding or representation that the petition, any amendments thereto, and/or any claims contained therein are not subject to dismissal as untimely.

8. Counsel for Petitioner respectfully requests that this Court grant this motion and order Petitioner to file his Amended Petition for Writ of Habeas Corpus no later than November 18, 2015.

DATED this 9th day of October, 2015.

Respectfully submitted
RENE L. VALLADARES
Federal Public Defender

/s/ Jason F. Carr
JASON F. CARR
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

In accordance with the Rules of Civil Procedure, the undersigned hereby certifies that on this 9th day of October, 2015, a true and correct copy of the foregoing **UNOPPOSED MOTION FOR AN ENLARGEMENT OF TIME IN WHICH TO FILE AN AMENDED PETITION FOR WRIT OF HABEAS CORPUS**, was filed electronically with the United States District Court. Electronic service of the foregoing document shall be made in accordance with the master service list as follows:

Amanda Kunzi
Deputy Attorney General
Appellate Division
100 North Carson Street
Carson City, NV 89701-4717

/s/ Leianna Jeske
An Employee of the
Federal Public Defender
District of Nevada